IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JANUARY 2006 / 20TH POUSHA, 1927

Crl.MC.No. 3391 of 2006()

CC.268/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, MANANTHAVADY

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PETITIONER: 2ND ACCUSED

C.M.MATHEW, S/O.MATHAI,
CHEMMANTHARA HOUSE, KOOLIVAYAL,
CHERUKATTOOR, MANANTHAVADY,
WAYANAD DT.

BY ADV. SRI.KRISHNA PRASAD. S

RESPONDENTS: STATE/DEFACTO COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERLA,
ERNAKULAM, REPRESENTING S.I. OF POLICE,
VELLAMUNDA POLICE STATION.

2. ANNAMMA THOMAS,
S/O.(LATE) THOMAS, KARUKA KALATHIL HOUSE,
CONVENT KUNNU, MANANTHAVADY P.O., WAYANAD DT.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/01/2007, ALONG WITH CRMC NO. 2411 OF 2006 & CRMC NO. 2067 OF 2006 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.Nos.2411 of 2006, 2067 of 2006
& 3391 of 2006

Dated this the 10th day of January 2007

O R D E R

Crl.M.C.No.3391/2006 was filed by the second accused in C.C.No.268/2006 to quash the said complaint. All these Criminal Miscellaneous Cases are connected and I shall refer to the parties in the manner in which they are ranked in C.C.No.268/2006.

2. One Annamma Thomas is the complainant in C.C.No.268/2006. According to her, she had entered into an agreement with the first accused for purchase of a Maruti Omni vehicle. It is her case that the vehicle was purchased with her funds by the first accused, one Pratheepan - not in her name but in his own name. She complained before the learned Magistrate earlier that the first accused had deceived her. That complaint was referred to the police. After investigation, it was referred as false.

3. The second accused C.M.Mathew, the petitioner in Crl.M.C.No.3391/2006 had purchased the said vehicle from the said Pratheepan. The second accused is shown as the owner of

the vehicle in the registration certificate with effect from 07/11/2005. He filed a complaint alleging that Annamma Thomas had illegally taken away his vehicle on 07/01/2006. That complaint is pending before the learned J.F.C.M-I, Mananthavady as C.C.No.121/06. Annamma Thomas is the only accused in that case.

4. In that complaint, that is C.C.No.121/06, a search warrant was issued and the vehicle was seized. Both Annamma Thomas as well as C.M.Mathew applied for release of the vehicle and by common order passed by the learned Magistrate, the vehicle was released to the said C.M.Mathew. Annamma Thomas has come to this court with Crl.M.C.No.2411/2006 to assail the said order. Crl.M.C.No.2067/2006 is filed by Annamma Thomas to quash C.C.No.121/2006 initiated against her by C.M.Mathew. C.M.Mathew, in turn, has come before this court with Crl.M.C.No.3391/2006 to quash C.C.No.268/06. These cases are pending before two different courts.

5. I have anxiously considered the submissions of the learned counsel for the petitioners in these Criminal Miscellaneous Cases. I am of the opinion that, at the moment

and with the available inputs, there is absolutely no justification in the prayer for quashing of C.C.No.268/2006 of J.F.C.M-II, Mananthavady and C.C.No.121/06 pending before the J.F.C.M-I, Mananthavady. I am of the opinion that the learned Magistrate must expeditiously dispose of both cases, after adducing evidence in the respective cases. Appropriate directions for expeditious disposal can be issued. There is absolutely no necessity to invoke powers under Section 482 Cr.P.C.

6. So far as the direction for release of the vehicle to C.M.Mathew is concerned, it is noted that he is the registered owner of the vehicle. Though Annamma Thomas claims to be the owner of the vehicle, there is absolutely no document to show such ownership of Annamma Thomas. Of course, the learned counsel for Annamma Thomas submits that there is an agreement dated 09/09/2005 between the first accused Pratheepan and Annamma Thomas which shows that the said Pratheepan had agreed to transfer the vehicle to Annamma Thomas. But admittedly there is nothing to show that such agreement has been acted upon and transfer has been endorsed in the registration certificate. At the moment and with the

available inputs, I find the decision taken by the learned Magistrate to release the vehicle to C.M.Mathew (A2) to be absolutely justified and unassailable. The release has been made subject to appropriate safeguards and conditions.

7. In these circumstances, I am satisfied that these Criminal Miscellaneous Cases deserve to be dismissed. Appropriate directions for expeditious disposal of C.C.No.121/06 pending before J.F.C.M-I, Mananthavady and C.C.No.268/06 pending before J.F.C.M-II, Mananthavady can be issued. I am satisfied that a direction can be issued that both cases must be disposed of by the same learned Magistrate and expeditiously.

8. In the result, these Criminal Miscellaneous Cases are dismissed but the following directions are issued:

(i) C.C.No.121/2006 pending before J.F.C.M-I, Mananthavady is transferred to J.F.C.M-II, Mananthavady.

(ii) J.F.C.M-II, Mananthavady shall dispose of both cases as expeditiously as possible, at any rate, within a period of three months from the date on which a copy of this judgment is placed before the learned Magistrate. Copy shall be issued to both counsel who shall produce it before the learned Magistrate to

apprise the learned Magistrate the directions issued.

9. Needless to say, the contestants shall be at liberty to adduce all evidences to substantiate their contentions in the cases and shall be entitled to claim discharge/acquittal at the appropriate stage. They shall be entitled to claim that final direction to release the vehicle under Section 452 Cr.P.C must be issued in their favour.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006